Banking and Finance Law Daily Wrap Up, CONSUMER CREDIT—CFPB provides payday lending rule relief, (Mar. 31, 2025)

Banking and Finance Law Daily Wrap Up

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With a compliance deadline nearing, the CFPB provided regulatory relief regarding its 2017 Payday Lending Rule.

Following over six years of legal challenges and a looming compliance deadline, the Consumer Financial Protection Bureau has provided regulatory relief regarding its Payday Lending Rule.

The CFPB's Payday Lending Rule, which was finalized in 2017 and set to be effective in 2019, was intended to protect financially vulnerable consumers from becoming trapped in debt by, among other things, limiting the number of times a lender can attempt to withdraw funds from a consumer's account to pay off a loan (see *Banking and Finance Law Daily,* Oct. 5, 2017).

In its latest announcement, the Bureau said it "will not prioritize enforcement or supervision actions with regard to any penalties or fines associated with the Payment Withdrawal provisions and the Payment Disclosure provisions once they become operative" and added that it "is further contemplating issuing a notice of proposed rulemaking to narrow the scope of the rule."

The Community Financial Services Association of America (CFSA), the national association representing non-bank lenders that offer small-dollar credit products and other financial services, challenged the CFPB's rulemaking in a Texas federal court, claiming that it constituted a constitutionally defective rulemaking that could not be cured by ratification. They also argued that the CFPB is unconstitutionally structured, challenging the CFPB Director's insulation from removal, Congress's broad delegation of authority to the CFPB, and the CFPB's unique, double-insulated funding mechanism. The district court rejected these arguments, but it issued a stay of the rule for 286 days following a final disposition of the matter to allow time for compliance and possible appeal (see *Banking and Finance Law Daily*, Sept. 1, 2021).

The CFSA appealed the lower court ruling to the U.S. Court of Appeals for the Fifth Circuit which ruled in 2022 that the CFPB's funding structure was unconstitutional (see *Banking and Finance Law Daily*, Oct. 20, 2022). In May 2024, the U.S. Supreme Court held that the CFPB's funding structure passed constitutional muster (see *Banking and Finance Law Daily*, May 16, 2024). All along the 286-day stay was in effect and subsequently modified by the Fifth Circuit in November 2024, setting March 30, 2025, as compliance date for the Payday Lend Rule.

Following the CFPB's latest announcement, the American Financial Services Association (AFSA) appreciated the CFPB's decision. The AFSA noted that it has "consistently called on the Bureau to not implement a highly flawed set of policies without first undertaking a full evaluation of the so-called 'Payday Rule' and its effects on consumers and businesses." The AFSA also was encouraged that the Bureau review the rule and looks forward to providing comments.

Companies: American Financial Services Association; Community Financial Services Association of America

RegulatoryActivity: BankingFinance CFPB ConsumerCredit DoddFrankAct FedTracker Loans

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